

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

YOUSIF H. HALLOUM, *et al.*,

Plaintiffs,

vs.

WELLS FARGO BANK, N.A., *et al.*,

Defendants.

Case No.: 2:24-cv-01077-GMN-EJY

ORDER

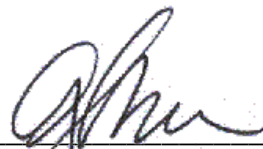
Pending before the Court is a Motion to Dismiss, (ECF No. 43), filed by Plaintiffs Iman Y. Halloum and Yousif H. Halloum. Defendant Wells Fargo filed a Response, (ECF No. 43), to which Defendants Wilmington Savings Fund Society and Clear Recon Corp joined, (ECF Nos. 47, 52). Plaintiff filed a Reply, (ECF No. 46).

The Court construes Plaintiff's Motion to Dismiss as a request for voluntary dismissal pursuant to Federal Rule of Civil Procedure ("FRCP") 41(a)(1)(A)(i). "[U]nder Rule 41(a)(1)(i), a plaintiff has an absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a motion for summary judgment. *Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc.*, 193 F.3d 1074, 1077 (9th Cir. 1999) (quotations and citation omitted). "[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required, the parties are left as though no action had been brought, the defendant can't complain, and the district court lacks jurisdiction to do anything about it." *Id.* at 1078.¹ No Defendant has filed an answer or motion for summary judgment in this action.

¹ Defendant Wilmington Savings Fund Society argues in its Response that the case should be dismissed with prejudice under the two-dismissal rule per FRCP 41(a)(1)(B). (*See generally* Wilmington's Substantive Joinder, ECF No. 47). However, the two-dismissal rule does not prevent a plaintiff from filing a second dismissal notice. Rather, "whether the second voluntary dismissal is subject to the two dismissal rule such that it operates with prejudice . . . is an issue that becomes ripe (and can be determined) only in a third action, if and when one is filed." *See Commercial Space Mgmt.*, 193 F.3d at 1076.

1 Accordingly, this action is terminated by operation of law without further order from the
2 Court. Fed. R. Civ. P. 41(a)(1)(A)(i). The Clerk of Court is kindly directed to terminate all
3 pending motions and CLOSE this case.

4 Dated this 16 day of December, 2024.

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8 Gloria M. Navarro, District Judge
9 United States District Court
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